



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-097

Polyester Textured Yarn from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that polyester textured yarn (yarn) from the People's Republic of China (China) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2018 through September 30, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Irene Gorelik or Jinny Ahn, AD/CVD

Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S.

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(202) 482-6905 or (202) 482-0339, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

investigation on November 19, 2018.¹ Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.² The revised tolled deadline for this preliminary determination was May 6, 2019. In response to the petitioners' request, Commerce postponed the preliminary determination of this investigation and the revised deadline is now June 25, 2019.³ On April 18, 2019, Commerce issued its preliminary critical circumstances determination that critical circumstances exist for imports from all producers and exporters of the subject merchandise from China.⁴

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.⁵ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at

¹ See *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 58223 (November 19, 2018) (*Initiation Notice*).

² See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

³ See *Polyester Textured Yarn from India and the People's Republic of China: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 84 FR 16843 (April 23, 2019).

⁴ See *Polyester Textured Yarn from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping and Countervailing Duty Investigations*, 84 FR 16840 (April 23, 2019) (*Preliminary Affirmative Critical Circumstances Determination*).

⁵ See Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Polyester Textured Yarn from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is polyester textured yarn from China. For a complete description of the scope of this investigation, *see* Appendix I and “Scope Comments” section.

Scope Comments

In accordance with the preamble to Commerce’s regulations,⁶ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (scope).⁷ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁸ Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice* to exclude bulk continuous filament yarn.

On May 2, 2019, the petitioners requested that Commerce include an additional Harmonized Tariff Schedule of the United States (HTSUS) subheading in the scope language. We intend to address this request in the final determinations of this and the concurrent AD and CVD investigations of yarn from India and China.

⁶ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁷ *See Initiation Notice*, 83 FR at 58233.

⁸ *See* Memorandum, “Polyester Textured Yarn from India and the People’s Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated April 26, 2019 (Preliminary Scope Decision Memorandum).

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. In addition, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences, for the China-wide entity. The China-wide entity includes each of the companies selected for individual examination: Fujian Zhengqi Hi-tech Fiber Technology Co., Ltd, Suzhou Shenghong Fiber Co., Ltd., and the single entity comprising Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd. and its affiliate Fujian Baikai Textile Chemical Fiber Co., Ltd. As adverse facts available (AFA) for the China-wide entity, we have assigned the highest margin alleged in the Petition of 77.15 percent.⁹

We preliminarily find that Jiangsu Hengli Chemical Fiber Co., Ltd. (Hengli), which was not selected for individual examination in this investigation, has demonstrated eligibility for a separate rate. However, because none of the mandatory respondents are receiving a separate rate and we are determining the China-wide rate based on AFA, we look to section 735(c)(5)(B) of the Act for guidance and are, consistent with that provision, using “any reasonable method” to determine the rate for exporters that are not being individually examined and found to be entitled to a separate rate. As “any reasonable method,” we find it appropriate to assign the simple average of the Petition rates (*i.e.*, 76.07 percent)¹⁰ to Hengli, consistent with our practice.¹¹ For a full description of the methodology underlying Commerce’s preliminary determination, *see* the Preliminary Decision Memorandum.

⁹ See Petitioners’ Letter, “Polyester Textured Yarn from the People’s Republic of China and India – Petition for the Imposition of Antidumping and Countervailing Duties,” dated October 18, 2018 (Petition); *see also* Petitioners’ Letter, “Polyester Textured Yarn from the People’s Republic of China – Petitioners’ Supplement for Volume II Regarding China Antidumping Duties,” dated October 29, 2018, at 7 and Exhibit AD-PRC-Supp-5; Initiation Checklist, dated November 7, 2018, at 12.

¹⁰ *Id.* The individual Petition rates, as initiated, are 74.98 percent and 77.15 percent. The simple average of these two Petition margins is 76.07 percent.

¹¹ *See, e.g., Carton-Closing Staples from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 13236, 13238 (March 28, 2018).

Combination Rates

In the *Initiation Notice*,¹² Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.¹³

Preliminary Determination

Commerce preliminarily determines that the following estimated dumping margins exist:

Producer	Exporter	Estimated Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Export Subsidy Offsets) (percent)
Jiangsu Hengli Chemical Fiber Co., Ltd.	Jiangsu Hengli Chemical Fiber Co., Ltd.	76.07 percent	65.39 percent
China-wide Entity ¹⁴		77.15 percent	66.47 percent

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct

¹² See *Initiation Notice* at 58227.

¹³ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," dated April 5, 2005 (Policy Bulletin 05.1), available on Commerce's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

¹⁴ The China-wide entity includes: (1) the single entity comprising Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd. and its affiliate Fujian Baikai Textile Chemical Fiber Co., Ltd.; (2) Suzhou Shenghong Fiber Co., Ltd.; (3) Fujian Zhengqi Hi-tech Fiber Technology Co., Ltd.; (4) Chori (China) Co., Ltd.; (5) Jinjiang Jinfu Chemical Fiber and Polymer Co., Ltd.; (6) Jiangsu Guowang High-Technique Fiber Co., Ltd.; and (7) Pujiang Fairy Home Textile Co., Ltd. In addition, 33 companies named in the Petition did not respond to our request for quantity and value information and two companies that submitted quantity and value data did not submit separate rate applications. Those companies are also part of the China-wide entity and are identified in the Preliminary Decision Memorandum.

CBP to require a cash deposit equal to the estimated dumping margins, as indicated in the chart above, as follows: (1) for the producer/exporter combination listed in the table above, the cash deposit rate is equal to the estimated dumping margin listed for that combination in the table; (2) for all combinations of Chinese producers/exporters of the subject merchandise that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated dumping margin established for the China-wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Chinese producer/exporter combination (or the China-wide entity) that supplied that third-country exporter.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances,¹⁵ any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily found that critical circumstances exist for all imports of subject merchandise from China. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries from all exporters and producers of the subject merchandise from China that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion CVD proceeding when CVD provisional measures are in effect.

¹⁵ See *Preliminary Affirmative Critical Circumstances Determination*, 84 FR at 16842.

Accordingly, where Commerce has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, Commerce has offset the calculated estimated dumping margin by the appropriate rates. As noted in the chart of estimated dumping margins above, we adjusted the cash deposit rates in this preliminary determination for export subsidies determined in the companion CVD investigation.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated dumping margins assigned in this preliminary determination unadjusted for the export subsidies at the time the CVD provisional measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the China-wide entity, of which the three mandatory respondents are a part, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the Petition, and the rate assigned to the sole separate rate company is a simple average of the Petition rates, there are no calculations to disclose.

Verification

Because the only rates established in this investigation are based on the Petition rates, we do not intend to conduct verification.

Public Comment

As stated in the Preliminary Scope Decision Memorandum, all interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determination.¹⁶ Case briefs regarding scope issues may be submitted within 10 days after the date of publication of this notice in the *Federal Register*. Rebuttal briefs regarding scope issues, limited to those issues which are raised in the scope case briefs, may be submitted no later than five days after the deadline date for scope case briefs. All scope case and rebuttal briefs must be filed identically on the records of this investigation and the concurrent AD and CVD investigations of yarn from India and China.

Case briefs or other written comments regarding non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of the preliminary determination, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁷ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold

¹⁶ See Preliminary Scope Decision Memorandum.

¹⁷ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On June 14, 2019, pursuant to 19 CFR 351.210(e), Fujian Billion requested, in the event of an affirmative preliminary determination, that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹⁸ On June 18, 2019, the petitioners also filed a request to postpone the final determination in the event of a negative preliminary determination.¹⁹ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination

¹⁸ See Letter from Fujian Billion, “Request for Extension of Final Determination and Provisional Measures,” dated June 14, 2019.

¹⁹ See Letter from the Petitioners, “Request to Extend the Antidumping Duty Final Determinations,” dated June 18, 2019.

and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce's final determination will publish no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: June 25, 2019

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packing method (such as spindles, tubes, or beams).

Excluded from the scope of the investigation is bulk continuous filament yarn that: (a) is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent.

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Postponement of Final Determination and Extension of Provisional Measures
- V. Selection of Respondents
- VI. Preliminary Determination of Critical Circumstances
- VII. Discussion of the Methodology
- VIII. Adjustment Under Section 777(A)(f) of the Act
- IX. Adjustments to Cash Deposit Rates for Export Subsidies
- X. Conclusion

[FR Doc. 2019-13983 Filed: 6/28/2019 8:45 am; Publication Date: 7/1/2019]